David P. Ridgeway, Clerk
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Phone: 404-775-7851

# Office Of
# Clerk Superior Court
Butts County
P.O. Box 61
Jackson, Georgia 30233

Hugh D. Sanders, Senior Judge
Forsyth, Ga.
Sam L. Whitmire, Chief Judge
Barnesville, Ga.
R. Alex Crumbley, Judge
McDonough, Ga.
E. Byron Smith, D.A.
Barnesville, Ga.

August 22, 1981

1) Mr. Richard H. Burr, III, Attorney at Law, Southern Prisoners' Defense Committee, Box 120636--Acklen Station, Nashville, Tenn. 37212 (Certified Mail)
2) Mr. Frank Derrickson, 600 Healey Building, 57 Forsyth St., NW Atlanta, Georgia 30303
3) Mr. Daryl A. Robinson, Assistant Attorney General, 132 State Judicial Building, 40 Capitol Square, S. E., Atlanta, GA 30334
4) Warden Walter D. Zant, GD&CC, POB 3877, Jackson, GA 30233
5) Department of Offender Rehabilitation, 800 Peachtree St., N.E. Atlanta, GA 30365, Attn: Mr. Micky Camp
6) Judge Willis B. Hunt, Jr., Houston County Courthouse, Perry, Georgia 31069
7) Mr. Theron Finlayson, District Attorney, Houston County Courthouse, Perry, Georgia 31069
8) Mr. Tommie S. Hunt, Clerk Superior Court, Houston County Courthouse, Perry, Georgia 31069

Re: Roger Collins
vs. Walter D. Zant, Warden
No. 5007

Gentlemen:

Enclosed herewith is a copy of the ORDER signed by Judge Crumbley on August 20, 1981, and filed in this office on August 21, 1981, in the above stated case.

Yours truly,

Audrey R. Halley
AUDREY R. HALLEY
Chief Deputy Clerk

/arh

encl.

IN THE SUPERIOR COURT OF BUTTS COUNTY

STATE OF GEORGIA

| | | |
|---|---|---|
| ROGER COLLINS, | : | |
| | : | |
| PETITIONER | : | |
| | : | |
| VS. | : | HABEAS CORPUS |
| | : | FILE NO. 5007 |
| WALTER D. ZANT, SUPERINTENDENT GEORGIA DIAGNOSTIC AND CLASSIFICATION CENTER, | : | |
| | : | |
| RESPONDENT | : | |

O R D E R

This Habeas Corpus challenges the constitutionality of Petitioner's restraint and the imposition of the death penalty by the Superior Court of Houston County. Collins was convicted of Murder and Rape. He was sentenced to death for Murder and fifteen years imprisonment for Rape. His convictions and sentences were affirmed by the Supreme Court. Collins v. State, 243 Ga. 291 (1979). The Supreme Court of the United States vacated the death sentence and remanded the case for further consideration in light of Godfrey.[1] Upon reconsideration the Supreme Court reaffirmed the death sentence. Collins v. State, 246 Ga. 261 (1980). The United States Supreme Court denied certiorari.

The Petition contains 44 numbered paragraphs, of which 26 allege susbantive claims for relief (17-42).

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[1] Godfrey v. Georgia, 446 U.S. 420, 100 S.Ct. 1759, 64 L.Ed.2d 398 (1980).

The Court will rule on those claims for relief by paragraphs corresponding numerically to the paragraphs in the Petition. However, Petitioner has not presented evidence or argument on 10 points (18-21, 28, 34-35, 37, 39, 42). If these issues have already been decided by the Supreme Court, then there is no problem with abandonment. To the extent this Court has anything on which to rule, they are deemed abandoned.

The record in this case consists of the depositions of Petitioner, Lois Collins, James J. Daly, Jr., Herbert L. Wells; the affidavits of Judith Bunker, Wynees Brinson, Faye Wilson; and the record and transcript of Petitioner's trial in the Houston County Superior Court.

17.

In paragraph 17, Petitioner contends he was denied effective assistance of counsel in violation of his Sixth and Fourteenth Amendment rights and corresponding rights under the Georgia Constitution.

FINDINGS OF FACT

Petitioner was represented at trial by James J. Daly, Jr., then Public Defender of the Houston Judicial Circuit. (Daly Depo. 3). Herbert L. Wells, an attorney in Perry, Georgia, was appointed to assist Daly. (Wells Depo. 4-5).

Counsel filed numerous pretrial motions (R. 6-23, 25-33, 46-51), with Wells assisting Daly in preparing the motions (Wells Depo. 6). Daly talked with the

doctors at Central State Hospital who had examined Petitioner, and was successful in moving for an independent psychiatric exam. (Daly Depo. 24). He also talked with the medical examiner. (Daly Depo. 33). Wells said that they received no cooperation whatsoever from any State's witnesses except they were given one interview with Styles. (Wells Depo. 44). They talked to all the witnesses who would talk to them. (Wells Depo. 67). No clothing was included in what was made available under the Brady motion so that no independent analysis could have been made. (Wells Depo. 20). As to evidence concerning the fatal blows to the victim, Daly said the only way to get this issue before the jury was through the testimony of Petitioner, and Petitioner was quite definite about refusing to testify despite Daly's contrary advice. (Daly Depo. 35-36).

Daly was primarily responsible for developing proof for the sentencing phase of trial. (Daly Depo. 6). He said the sentencing phase was anticipated well in advance because all along he and Wells thought Petitioner would be convicted. Id. Part of his preparation consisted of numerous visits with Petitioner. Id. The overall strategy was to show Durham was the "bad guy, trigger man, prime mover." Id. Though Petitioner offers conflicting testimony on the issue of availability of character witnesses (R. Collins Depo. 4, 27-29; L. Collins Depo. 11; Brinson and Wilson Affidavits), Counsel said Petitioner was unable at the

time of trial to provide them with any names of character witnesses or former employers (Daly Depo. 6-7; Wells Depo. 65-66). Counsel did discuss with Petitioner's mother the possibility of her testifying, but Petitioner did not really want to involve her. (Daly Depo. 8). Counsel decided Petitioner's mother would not have much credibility, given her background and her relationship with Durham, and that she would do more harm than good. (Daly Depo. 8-9).

At the trial, Counsel cross-examined State's witnesses (T.T. 55, 68; 77; 132; 174; 185; 202; 205; 215; 229; 240; 261); made motions (T.T. 4; 27; 112; 294; 341; 344); gave argument during the guilt/innocence phase (T.T. 311-19); gave argument during the sentencing phase (T.T. 366-376); and presented Petitioner in his own behalf at the sentencing phase. (T.T. 348).

## CONCLUSIONS OF LAW

The Sixth Amendment right to counsel means "...not errorless counsel, and not counsel judged ineffective by hindsight, but counsel reasonably likely to render and rendering reasonably effective assistance." MacKenna v. Ellis, 280 F.2d 592 (5th Cir. 1960); Pitts v. Glass, 231 Ga. 638 (1974).

Petitioner's counsel easily meet this test. Both attorneys prepared for and advocated Petitioner's cause in a reasonably effective manner considering

the difficulty of the case and the lack of material to work with. The effort counsel put forth was certainly reasonably effective within the meaning of the standard.

Effectiveness is not measured by how another lawyer might have handled the case. Estes v. Perkins, 225 Ga. 268 (1968); Jones v. State, 243 Ga. 820 (1979). Such allegations as counsel carelessly cross-examined a witness or failed to present an effective closing argument constitute the kind of hindsight which has never provided the basis for ineffective assistance claims. MacKenna v. Ellis, supra; Pitts v. Glass, supra.

Accordingly, the Court finds this claim for relief to be without merit.

22.

The Supreme Court has already decided that the statements to which Petitioner objects were clearly part of the res gestae and were admissible. Collins v. State, 243 Ga. at 295.

23.

The Supreme Court has already concluded that the hearsay statements of Durham were admissible as part of the res gestae. Collins v. State, 243 Ga. at 295-296.

24.

In paragraph 24, Petitioner claims constitutional error by the trial court's failure to direct a verdict of not guilty on the charge of rape.

On direct appeal, the Supreme Court decided this issue adversely to Petitioner. Collins v. State, 243 Ga. at 297. Although the decision was rendered before Jackson v. Virginia, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979), there is sufficient evidence from which a rational trier of fact could find Petitioner guilty of rape beyond a reasonable doubt. Jackson v. Virginia, supra.

25.

In paragraph 25, Petitioner contends he was denied due process of law when the trial court allegedly erred in charging the jury on reasonable doubt. Specifically, Petitioner claims the trial court overstated the degree of uncertainty required for reasonable doubt by using the words, "wavering, unsettled, and unsatisfied."

The Court finds this allegation to be without merit.

26.

In paragraph 26, Petitioner alleges the charge to the jury concerning criminal intent was impermissibly burden-shifting under Sandstrom v. Montana, 422 U.S. 510, 99 S.Ct. 2450, 61 L.Ed.2d 39 (1979).

FINDINGS OF FACT

The jury was instructed as follows:

> "A presumption is a conclusion which the law draws from given facts. Each of the following presumptions that I am going to give you is rebuttable; that is, each is subject to being

overcome by evidence to the contrary. Every person is presumed to be of sound mind and discretion. The acts of a person of sound mind and discretion are presumed to be the product of the person's will. A person of sound mind and discretion is presumed to intend the natural and probable consequences of his acts. A person will not be presumed to act with criminal intention but the trier of facts may find such intention upon consideration of the acts, conduct, demeanor, motive and all other circumstances connected with the act for which the accused is tried.

Criminal intent is a necessary ingredient of crime and proof of that intent must exist before a conviction is authorized. Whether it has been shown is ordinarily for the jury to decide. It may be demonstrated by the acts and conduct of the defendant, it may be inferred from the proven circumstances or it may be presumed where it appears to be the necessary or probable consequence of the defendant's acts."

(T.T. 327-328).

## CONCLUSIONS OF LAW

Sandstrom is readily distinguished on the ground that there the jury "were not told the presumption could be rebutted." 61 L.Ed.2d at 46. Here, the trial court clearly instructed the jury the presumption could be rebutted.

The charge on criminal intent merely created a permissibe presumption which the jury was free to apply or reject. Such permissive presumptions are valid. Skrine v. State, 244 Ga. 520 (1979).

Accordingly, the allegation in paragraph 26 is found to be without merit.

27.

In paragraph 27, Petitioner claims his Fifth and Fourteenth Amendment rights were violated by the admission at trial of his statements to officers of the Houston County Sheriff's Department.

## FINDINGS OF FACT

Petitioner was arrested on August 7, 1977, by officers of the Houston County Sheriff's Department. (M.T. 6)[2] The pretrial hearing conducted on Petitioner's Motion to Suppress, by agreement, served as the equivalent of a Jackson-Denno hearing. (M.T.5). At his initial interrogation on August 7, Petitioner was given his Miranda warnings, signed a written waiver, but gave no statement. (M.T. 9-10). At a second interview on either August 7 or 8,[3] Petitioner gave a statement concerning the charges of rape and murder. (M.T. 11, 30). Petitioner was aware his statement was being recorded. (M.T. 11).

After having given his statement, Petitioner was brought before a magistrate on August 8.(M.T. 30). Upon hearing the charges against him, Petitioner requested an attorney. (M.T. 58).

On August 12, officers questioned Petitioner about another case and asked him "to give us another tape on the Luster murder." (M.T. 39). Apparently some error occurred in taping the first statement so that the tape was blank. (M.T. 39, 57). Petitioner

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[2] Pretrial Motions Hearing Transcript of October 21, 1977.

[3] Of the two officers present at this interview, one officer testified it occurred August 7 (M.T. 11), while the other officer said August 8 (M.T.30).

gave them a second statement about the case. (M.T. 45-46). One officer who was present at the second taping knew Petitioner had requested an attorney four days before when appearing before the magistrate. (M.T. 59).

The trial court found that Petitioner requested an attorney in connection with his appearance before the magistrate.[4] (M.T. 95). The Court also found that as a preliminary to any statement he made, Petitioner was fully advised of his constitutional rights to an attorney. Id.

At trial, Officer Enckler testified that Defendant admitted complicity in the rape and the murder during the taped interrogation which occurred on August 7, 1977. (T.T. 254-255). The August 12 tape, taken after Defendant had requested an attorney, was played for the jury (T.T. 258). (For content of the statement, see State's Exhibit 42).

## CONCLUSIONS OF LAW

The issue presented is whether the admission by the Court of the taped statement taken on August 12, 1977, violated Defendant's Fifth and Fourteenth Amendment rights against self incrimination.

The recent case of Edwards v. Arizona, 29 Crim. L. Rep. (BNA) 3037 (U.S. May 18, 1981) held that, where an accused has invoked his right to counsel, a valid waiver of that right cannot be established by showing only that he responded to police initiated

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[4] The evidence is unclear as to whether the appearance was an arraignment or a commitment hearing.

interrogation after being again advised of his rights.

In this case, Petitioner requested a lawyer and was subsequently interrogated at the instance of the police. The same officer who interrogated him on August 12, 1977, and took the taped statement was present when he requested counsel when taken before the magistrate. Therefore, it is clear that the officer took the taped statement after Defendant had requested counsel.

The trial court, therefore, did commit error in admitting the taped statement of August 12, 1977. It was taken in violation of the Fifth and Fourteenth Amendment rights of Petitioner under the authority of Edwards v. Arizona, supra.

However, the Court rules that the error was harmless. The trial court properly admitted testimony of the officer concerning the first statement given by Defendant on August 7, 1977 (T.T. 254-255). This statement clearly implicated the Defendant in the rape and murder. The erroneously admitted taped statement of August 12, 1977 (see State's Exhibit 42) is inculpatory but less so than the officer's testimony concerning the earlier statement. On the erroneously admitted tape, Defendant/Petitioner denied participating in the rape and denied directly committing the murder. While this statement, standing alone, would certainly be contrary to Defendant/Petitioner's interest because it placed him at the scene and would make him at least a party to the crime of murder, when viewed in the

context of the earlier statement that he had actually committed the rape and murder (see T.T. 254-255), the taped statement is actually helpful rather than harmful to the Defendant/Petitioner. In fact, his counsel might well have decided not even to object to the taped statement after the officer's testimony concerning the earlier statement had been admitted. The admission of the taped statement, while erroneous under Edwards v. Arizona, supra, in all likelihood helped Defendant more than it harmed him in the eyes of the jury.

Accordingly, the Court finds beyond a reasonable doubt that the erroneously admitted tape in all likelihood did not contribute to the verdict of guilty or the imposition of the death penalty. For this reason, the Court rules that the conviction should not be set aside.

29.

The Supreme Court has already concluded there was sufficient evidence to support each element of the offense of rape and that its consideration as an aggravating circumstance was not error. Collins v. State, 243 Ga. at 297. The Court expressly upheld the Ga. Code Ann. §27-2534.1(b)(2) aggravating circumstance involving rape. Collins v. State, 246 Ga. at 262.

Petitioner further claims that the consideration of rape as a capital felony for purposes of the (b)(2) aggravating circumstance is an unconstitutional

act of judicial legislation by the Supreme Court. The Court finds this argument to be without merit.

30.

In paragraph 30, Petitioner claims the jury instruction on the (b)(7) aggravating circumstance was improper and violated his Eighth and Fourteenth Amendment rights.

The Supreme Court has already reconsidered Petitioner's sentence in light of Godfrey v. Georgia, supra, and concluded the (b)(7) aggravating circumstance was properly applied. Collins v. State, 246 Ga. 261 (1980). Implicit in the finding that (b)(7) was properly applied would be the fact that the jury charge on (b)(7) was not improper.

Accordingly, this allegation is found to be without merit.

31.

See paragraph 30.

32.

In paragraph 32, Petitioner alleges the trial court failed to define the role of mitigating circumstances sufficiently in the jury charge during the sentencing phase. Specifically, Petitioner claims that by telling the jury they "should consider" any mitigating circumstances, the trial court failed to require the jury to give full consideration to mitigating circumstances.

The Court finds this argument to be without merit.

33.

In paragraph 33, Petitioner claims constitutional deprivation by the failure of the trial court to require the jury to give independant mitigating weight to the facts adduced concerning the character and record of Petitioner and circumstances surrounding the crime.

The Court finds this argument to be without merit.

36.

In paragraph 36, Petitioner claims constitutional deprivation by the failure of the trial court to require to make findings of fact with respect to mitigating circumstances.

There is clearly no such requirement under Georgia's death penalty statute. Accordingly, this allegation is found to be without merit.

38.

In paragraph 38, Petitioner alleges his Eighth and Fourteenth Amendment rights were violated by the failure to the Superme Court to review his sentence and determine it falls into the category of "most extreme cases" which warrant the death penalty.

The Supreme Court conducted a sentence review on direct appeal, Collins v. State, 243 Ga. at 299, and a second review upon remand, Collins v. State, 246 Ga. at 261. The Court found "material differences between Godfrey and the case under review, which

distinguish this murder from the murder in Godfrey and from other 'ordinary' murders for which the death penalty is not appropriate." Id.

Accordingly, this allegation is found to be without merit.

40.

Having found both aggravating circumstances valid in paragraphs 29 and 30, the Court finds no merit in Petitioner's allegation of constitutional deprivation by failure of the Supreme Court to reverse Petitioner's death sentence and remand his case for a new sentencing proceeding.

41.

In paragraph 41, Petitioner claims he was deprived of his right to due process by the failure of one or more jurors to remain awake during the course of the trial.

This ground is without merit. There has been no showing that the jury missed anything or that Defendant was prejudiced by proceedings at a late hour or that the Court did not respond promptly to the suggestion that some of the jurors were tired.

WHEREFORE, all allegations of the Petition having been found to be without merit, said Petition is denied.

This 20 day of August, 1981.

Alex Crumbley

ALEX CRUMBLEY
JUDGE SUPERIOR COURTS
FLINT JUDICIAL CIRCUIT

Application No. 1795

SUPREME COURT OF GEORGIA

ATLANTA, December 3, 1981

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

ROGER COLLINS V. WALTER D. ZANT, WARDEN

Upon consideration of the application for a certificate of probable cause to appeal filed in this case, it is ordered that it be hereby denied.

SUPREME COURT OF THE STATE OF GEORGIA,

CLERK'S OFFICE, ATLANTA,

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Joline B. Williams, Clerk.

**27-2534.1 Mitigating and aggravating circumstances; death penalty**

(a) The death penalty may be imposed for the offenses of aircraft hijacking or treason, in any case.

(b) In all cases of other offenses for which the death penalty may be authorized, the judge shall consider, or he shall include in his instructions to the jury for it to consider, any mitigating circumstances or aggravating circumstances otherwise authorized by law and any of the following statutory aggravating circumstances which may be supported by the evidence:

(1) The offense of murder, rape, armed robbery, or kidnapping was committed by a person with a prior record of conviction for a capital felony, or the offense of murder was committed by a person who has a substantial history of serious assaultive criminal convictions.

(2) The offense of murder, rape, armed robbery, or kidnapping was committed while the offender was engaged in the commission of another capital felony, or aggravated battery, or the offense of murder was committed while the offender was engaged in the commission of burglary or arson in the first degree.

(3) The offender by his act of murder, armed robbery, or kidnapping knowingly created a great risk of death to more than one person in a public place by means of a weapon or device which would normally be hazardous to the lives of more than one person.

(4) The offender committed the offense of murder for himself or another, for the purpose of receiving money or any other thing of monetary value.

(5) The murder of a judicial officer, former judicial officer, district attorney or solicitor or former district attorney or solicitor during or because of the exercise of his official duty.

(6) The offender caused or directed another to commit murder or committed murder as an agent or employee of another person.

(7) The offense of murder, rape, armed robbery, or kidnapping was outrageously or wantonly vile, horrible or inhuman in that it involved torture, depravity of mind, or an aggravated battery to the victim.

(8) The offense of murder was committed against any peace officer, corrections employee or fireman while engaged in the performance of his official duties.

(9) The offense of murder was committed by a person in, or who has escaped from, the lawful custody of a peace officer or place of lawful confinement.

(10) The murder was committed for the purpose of avoiding, interfering with, or preventing a lawful arrest or custody in a place of lawful confinement, of himself or another.

(c) The statutory instructions as determined by the trial judge to be warranted by the evidence shall be given in charge and in writing to the jury for its deliberation. The jury, if its verdict be a recommendation of death, shall designate in writing, signed by the foreman of the jury, the aggravating circumstance or circumstances which it found beyond a reasonable doubt. In non-jury cases the judge shall make such designation. Except in cases of treason or aircraft hijacking, unless at least one of the statutory aggravating circumstances enumerated in section 27-2534.1 (b) is so found, the death penalty shall not be imposed.

(Acts 1973, pp. 159, 163.)

27-2537 Review of death sentences

(a) Whenever the death penalty is imposed, and upon the judgment becoming final in the trial court, the sentence shall be reviewed on the record by the Supreme Court of Georgia. The clerk of the trial court, within 10 days after receiving the transcript, shall transmit the entire record and transcript to the Supreme Court of Georgia together with a notice prepared by the clerk and a report prepared by the trial judge. The notice shall set forth the title and docket number of the case, the name of the defendant and the name and address of his attorney, a narrative statement of the judgment, the offense, and the punishment prescribed. The report shall be in the form of a standard questionnaire prepared and supplied by the Supreme Court of Georgia.

(b) The Supreme Court of Georgia shall consider the punishment as well as any errors enumerated by way of appeal.

(c) With regard to the sentence, the court shall determine:

(1) Whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor, and

(2) Whether, in cases other than treason or aircraft hijacking, the evidence supports the jury's or judge's finding of a statutory aggravating circumstance as enumerated in section 27-2534.1 (b), and

(3) Whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant.

(d) Both the defendant and the State shall have the right to submit briefs within the time provided by the court, and to present oral argument to the court.

(e) The court shall include in its decision a reference to those similar cases which it took into consideration. In addition to its authority regarding correction of errors, the court, with regard to review of death sentences, shall be authorized to:

(1) Affirm the sentence of death; or

(2) Set the sentence aside and remand the case for resentencing by the trial judge based on the record and argument of counsel. The records of those similar cases referred to by the Supreme Court of Georgia in its decision, and the extracts prepared as hereinafter provided for, shall be provided to the resentencing judge for his consideration.

(f) There shall be an Assistant to the Supreme Court, who shall be an attorney appointed by the Chief Justice of Georgia and who shall serve at the pleasure of the court. The court shall accumulate the records of all capital felony cases in which sentence was imposed after January 1, 1970, or such earlier date as the court may deem appropriate. The Assistant shall provide the court with whatever extracted information it desires with respect thereto, including but not limited to a synopsis or brief of the facts in the record concerning the crime and the defendant.

(g) The court shall be authorized to employ an appropriate staff and such methods to compile such data as are deemed by the Chief Justice to be appropriate and relevant to the statutory questions concerning the validity of the sentence.

(h) The office of the Assistant shall be attached to the office of the Clerk of the Supreme Court of Georgia for administrative purposes.

(i) The sentence review shall be in addition to direct appeal, if taken, and the review and appeal shall be consolidated for consideration. The court shall render its decision on legal errors enumerated, the factual substantiation of the verdict, and the validity of the sentence.

(Acts 1973, pp. 159, 165.)

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SUPREME COURT U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER, 1981

NO. 81 6304

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ROGER COLLINS,

Petitioner,

-v-

WALTER D. ZANT,

Respondent.

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MOTION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS

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The Petitioner, ROGER COLLINS, who is now held in a Georgia penitentiary, asks leave to file the attached Petition for a Writ of Certiorari to the Supreme Court of Georgia without prepayment of costs and to proceed in forma pauperis pursuant to Rule 46.

The Petitioner's affidavit in support of this motion is attached hereto. Petitioner has previously proceeded in forma pauperis in the courts of Georgia. See Notice of Appeal filed in the Superior Court of Butts County (Georgia) dated September 21, 1981.

Richard H. Burr, III

Richard H. Burr, III
Southern Prisoners' Defense
Committee
Box 120636, Acklen Station
Nashville, Tennessee 37212
(615) 383-9610

COUNSEL FOR PETITIONER

RECEIVED
MAR 2 1982
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SUPREME COURT U.S.

IN FORMA PAUPERIS AFFIDAVIT

IN THE

SUPREME COURT OF THE UNITED STATES

ROGER COLLINS
(Petitioner)

v.

WALTER D. ZANT
(Respondent(s))

AFFIDAVIT IN SUPPORT
OF REQUEST
TO PROCEED
IN FORMA PAUPERIS

I, ROGER COLLINS, being first duly sworn, depose and say that I am the petitioner in the above entitled case; that in support of my motion to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to relief.

I further swear that the responses which I have made to questions and instructions below are true.

1. Are you presently employed? Yes [ ] No [✓]

   a. If the answer is "yes," state the amount of your salary or wages per month, and give the name and address of your employer.

   b. If the answer is "no," state the date of last employment and the amount of the salary and wages per month which you received. don't Recall

2. Have you received within the past twelve months any money from any of the following sources?

   a. Business, profession or form of self-employment? Yes [ ] No [✓]

   b. Rent payments, interest or dividends? Yes [ ] No [✓]

c. Pensions, annuities or life insurance payments?
Yes [ ] No [✓]

d. Gifts or inheritances? Yes [ ] No [✓]

e. Any other sources? Yes [ ] No [✓]

If the answer to any of the above is "yes," describe each source of money and state the amount received from each during the past twelve months. _____

3. Do you own cash, or do you have money in a checking or savings account? Yes [✓] No [ ] (Include any funds in prison accounts.) If the answer is "yes," state the total value of the items owned. 27.00 (Dollars $27)

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? Yes [ ] No [✓]
If the answer is "yes," describe the property and state its approximate value. _____

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support. —

I understand that a false statement or answer to any questions in this affidavit will subject me to penalties for perjury.

Roger Collins
(Petitioner's signature)

State of Georgia

County of Butts

ROGER COLLINS, being first duly sworn under oath, presents that he has read and subscribed to the above and states that the information therein is true and correct.

(Name of Petitioner)

Roger Collins
Signature of Petitioner
(Required as to each petitioner)

Subscribed and sworn to before me this 25th day of Feb, 1982.

C W Conner
Notary Public or other person authorized to administer an oath

CERTIFICATE

I hereby certify that the petitioner herein has the sum of $ 27.00 on account to his credit at the Ga. Diag. Ctr. institution where he is confined. I further certify that petitioner likewise has the following securities to his credit according to the records of said above institution: None

David Cawthon Acctg Tech. I
Authorized Officer of Institution
2/24/82